

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

WILLIE ALFRED BOLTON

Plaintiff

VS.

RUSSO INTERNATIONAL, LLC AND
NOEL FERNANDEZ BARBAN

Defendants

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§
§

No. _____

NOTICE OF REMOVAL

TO: WILLIE ALFRED BOLTON, Plaintiff, and his attorney of record.

Comes now RUSSO INTERNATIONAL, LLC and NOEL FERNANDEZ BARBAN, Defendants in the above entitled and numbered cause, hereinafter referred to as Defendants, and hereby gives notice to Plaintiff of the removal of this cause of action, and would show as follows:

1. On the 28th day of October, 2015, Plaintiff filed a lawsuit against Defendants, RUSSO INTERNATIONAL, LLC and NOEL FERNANDEZ BARBAN in the Cause No. 69088A in the 47th District Court of Randall County, Texas. Service of Process and citation were requested upon the Defendants and served on Defendants on November 30, 2015. A copy of Plaintiff's Original Petition is contained in the Index of State court Pleadings attached hereto. Plaintiffs filed his Original Petition on October 28, 2015. No further proceedings have been had in this litigation.

2. The above described action is one of which this Court has original jurisdiction under the provisions of Title 28, United States Code, Sections 1332, 1441 and 1446, and is one which may be removed to this Court by the Defendants pursuant to said provisions in that it is a civil action wherein the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, (Plaintiffs' Original Petition seeks damages in the amount of \$70,000.)

3. The Plaintiff at the time this action was commenced, was and is still a citizen of the State of Texas. The Defendant, at the time this action was commenced, was and is still a corporation organized and existing under the laws of the State of Delaware, and was then and is still a resident and citizen of the State of Delaware, having its principal place of business in Wayne, New Jersey.

4. Defendant promptly after the filing of this notice of removal gave proper notice of such filing to the Plaintiff and the District Clerk of Randall County, Texas, as evidenced by the proof of service of the same attached hereto.

WHEREFORE, Defendant prays that Cause No. 69088A in the 47th District Court of Randall County, Texas, be removed to this court and that the court enter an order of removal accordingly.

DATED this 18th day of December, 2015.

CRAIG, TERRILL, HALE & GRANTHAM, L.L.P.
FirstBank Centre
9816 Slide Road, Suite 201
Lubbock, Texas 79424
(806) 744-3232
(806) 744-2211 (fax)
BudG@CTHGlawfirm.com



Leonard R. (Bud) Grossman
SBN 00784182
ATTORNEYS FOR DEFENDANTS,
RUSSO INTERNATIONAL, LLC.
and NOEL FERNANDEZ BARBAN

THE STATE OF TEXAS

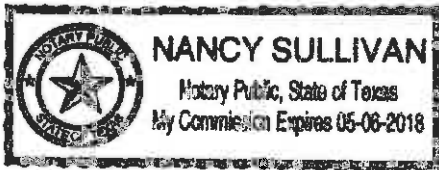
COUNTY OF LUBBOCK

Leonard R. (Bud) Grossman, being duly sworn, upon oath deposes and says that he is the attorney for the Defendant; that he has read the foregoing notice of removal and that it is true and correct to the best of his knowledge.



Leonard R. (Bud) Grossman

SUBSCRIBED AND SWORN TO BEFORE ME by Leonard R. (Bud) Grossman, on this 18th day of December, 2015.



Notary Public, State of Texas

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was sent by Efiling and facsimile, to the following person on this the 18th day of December, 2015:



Of the Firm

Jo Carter
RANDALL COUNTY DISTRICT CLERK
2309 Russell Long Blvd, Suite 110
Canyon, TX 79015
district clerk@randallcounty.org

Ed McConnell
McConnell & Tormey
P. O. Box 629
Amarillo, Texas 79105
Fax: 806-355-4771
ed@mcconnell-tormey-law.com

INDEX OF STATE COURT PLEADINGS

<u>DATE</u>	<u>DOCUMENT</u>
October 28, 2015	Plaintiff's Original Petition
October 28, 2015	Request for Issuance – Russo International
October 29, 2015	Letter – Randall County District Clerk
October 29, 2015	Request for Issuance – Noel Fernandez Barban
October 30, 2015	Citation Issued – Noel Fernandez Barban
October 30, 2015	Citation Issued – Russo International
November 9, 2015	Citation Served - Noel Fernandez Barban
December 3, 2015	Citation Served – Russo International
December 3, 2015	Defendants' Original Answer

47TH DISTRICT COURT
CASE SUMMARY
CASE NO. 69088A

WILLIE ALFRED BOLTON
VS.
RUSO INTERNATIONAL, LLC AND
NOEL FERNANDEZ BARBAN

§
§
§
§

Location: **47th District Court**
Judicial Officer: **Schaap, Dan L**
Filed on: **10/28/2015**

CASE INFORMATION

Case Type: **Injury or Damage - Motor Vehicle**

Case Flags: **Jury Trial Requested**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number 69088A
Court 47th District Court
Date Assigned 10/28/2015
Judicial Officer Schaap, Dan L

PARTY INFORMATION

Plaintiff

BOLTON, WILLIE ALFRED

Lead Attorneys

MCCONNELL, ED
Retained
806-355-2700(W)

Defendant

BARBAN, NOEL FERNANDEZ

GROSSMAN, LEONARD R
Retained
806-744-3232(W)

RUSO INTERNATIONAL, LLC

GROSSMAN, LEONARD R
Retained
806-744-3232(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX












10/28/2015	 Original Petition (OCA)	
10/28/2015	CIVIL SCHEDULE REVIEW-18 Months	
10/29/2015	 REQUEST FOR ISSUANCE - RUSSO	
10/29/2015	 LETTER TO RANDALL COUNTY DISTRICT CLERK	
10/29/2015	 REQUEST FOR ISSUANCE - BARBAN	
10/30/2015	 Citation Issued NOEL FERNANDEZ - BY SERVING SECRETARY OF STATE - CMS	
10/30/2015	 Citation Issued RUSSO INTERNATIONAL, LLC - BY SERVING SECRETARY OF STATE - CMS	
11/06/2015	 Citation Served	

EXHIBIT B

47TH DISTRICT COURT
CASE SUMMARY
CASE NO. 69088A

	<i>RUSSO INTERNATIONAL, LLC - 11.3.15 - GREEN CARD - CMS</i>	
11/09/2015	 Citation Served <i>NOEL FERNANDEZ BARBAN - 11.4.15 - GREEN CARD - CMS</i>	
12/03/2015	 Citation Served <i>Certificate of Service by Secretary of State ON NOEL FERNANDEZ BARBAN</i>	
12/03/2015	 ANSWER <i>ORIGINAL ANSWER OF DEF, RUSSO INTERNATIONAL, LLC AND NOEL FERNANDEZ BARBAN</i>	
12/14/2015	 REQUEST <i>FOR CERTIFIED COPIES</i>	

DATE	FINANCIAL INFORMATION
	Defendant BARBAN, NOEL FERNANDEZ
	Total Charges 2.00
	Total Payments and Credits 2.00
	Balance Due as of 12/18/2015 0.00
	Plaintiff BOLTON, WILLIE ALFRED
	Total Charges 522.00
	Total Payments and Credits 522.00
	Balance Due as of 12/18/2015 0.00

NO. 69088A

WILLIE ALFRED BOLTON
Plaintiff,

V.

RUSSO INTERNATIONAL, LLC AND
NOEL FERNANDEZ BARBAN
Defendants.

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IN THE DISTRICT COURT

_____ JUDICIAL DISTRICT

RANDALL COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES WILLIE ALFRED BOLTON, hereinafter called Plaintiff, complaining of and about RUSSO INTERNATIONAL, LLC and NOEL FERNANDEZ BARBAN, hereinafter called Defendants, and for cause of action shows unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 2.

PARTIES AND SERVICE

2. Plaintiff, WILLIE ALFRED BOLTON, is an Individual who resides at 2721 Palm Street, Amarillo, Potter County Texas.

3. WILLIE ALFRED BOLTON's driver's license number is 07282153. The last three numbers of WILLIE ALFRED BOLTON's Social Security Number are 057.

4. Defendant RUSSO INTERNATIONAL, LLC, a Nonresident Limited Liability Company, engages or has engaged in business in this state, but does not maintain a regular place of business or a designated agent for service of process. This lawsuit arises out of the business done in this state and to which said Defendant is a party. Therefore, under Section 17.044 of the Texas Civil Practice and Remedies Code, substituted service on Defendant should be made by serving the Secretary of State of Texas, Statutory Documents Section, Citations Unit, P.O. Box



**CERTIFIED TRUE AND
CORRECT COPY**
Jo Carter, District Clerk
Randall County, Texas



COPY

EXHIBIT C

FILED
10/28/2015 4:33:55 PM
Jo Carter, District Clerk
Randall County, Texas
____AH____ Deputy

12079, Austin, Texas 78711-2079, and forwarded to Defendant's home office at 4620 N.W. 73rd Ave., Miami, Florida 33166, c/o Armando Uribe, Manager. Service of said Defendant as described above can be effected by certified mail, return receipt requested.

5. Defendant NOEL FERNANDEZ BARBAN, an Individual who is a nonresident of Texas, engages or has engaged in business in this state, but does not maintain a regular place of business or a designated agent for service of process. This lawsuit arises out of the business done in this state and to which said Defendant is a party. Therefore, under Section 17.044 of the Texas Civil Practice and Remedies Code, substituted service on Defendant should be made by serving the Secretary of State of Texas, Statutory Documents Section, Citations Unit, P.O. Box 12079, Austin, Texas 78711-2079, and forwarded to Defendant's home at 1600 N.W. North River Dr., Apt. 216, Miami, Florida 33125. Service of said Defendant as described above can be effected by certified mail, return receipt requested.

JURISDICTION AND VENUE

6. The subject matter in controversy is within the jurisdictional limits of this court.

7. Plaintiff seeks monetary relief over \$100,000 but not more than \$200,000.

8. This court has jurisdiction over Defendant RUSSO INTERNATIONAL, LLC, because said Defendant purposefully availed itself of the privilege of conducting activities in the state of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendant, and the assumption of jurisdiction over RUSSO INTERNATIONAL, LLC will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

9. Plaintiff would also show that the cause of action arose from or relates to the contacts of Defendant RUSSO INTERNATIONAL, LLC to the state of Texas, thereby



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Jo Carter, District Clerk
Randall County, Texas

Plaintiff's Original Petition

conferring specific jurisdiction with respect to said Defendant.

10. Furthermore, Plaintiff would show that Defendant RUSSO INTERNATIONAL, LLC engaged in activities constituting business in the state of Texas as provided by Section 17.042 of the Texas Civil Practice and Remedies Code, in that said Defendant committed a tort in whole or in part in Texas.

11. This court has jurisdiction over Defendant NOEL FERNANDEZ BARBAN, because said Defendant purposefully availed himself of the privilege of conducting activities in the state of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendant, and the assumption of jurisdiction over NOEL FERNANDEZ BARBAN will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

12. Plaintiff would also show that the cause of action arose from or relates to the contacts of Defendant NOEL FERNANDEZ BARBAN to the state of Texas, thereby conferring specific jurisdiction with respect to said Defendant.

13. Furthermore, Plaintiff would show that Defendant NOEL FERNANDEZ BARBAN engaged in activities constituting business in the state of Texas as provided by Section 17.042 of the Texas Civil Practice and Remedies Code, in that said Defendant committed a tort in whole or in part in Texas.

14. Venue in Randall County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

FACTS

15. On or about September 2, 2015, Plaintiff was operating his 1994 GMC Sierra



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Randall County, Texas
Plaintiff's Original Petition

Pick-up South on East Loop 335 in Amarillo, Randall County, Texas. Plaintiff had slowed his vehicle to make a left turn into the driveway of Copart Motors when Defendant NOEL FERNANDEZ BARBAN, operating a 2006 Freightliner tractor-trailer owned by Defendant RUSSO INTERNATIONAL, LLC, rear-ended Plaintiff's vehicle, causing Plaintiff's injuries and damages complained of herein. The trailer being pulled by the 2006 Freightliner was a 2013 Great Dane trailer owned by Wells Fargo Equipment, Inc., located at 733 Marquette Ave., Minneapolis, Minnesota 55402.

**PLAINTIFF'S CLAIM OF
RESPONDEAT SUPERIOR AGAINST RUSSO INTERNATIONAL, LLC**

16. At the time of the occurrence of the act in question and immediately prior thereto, NOEL FERNANDEZ BARBAN was within the course and scope of employment for Defendant RUSSO INTERNATIONAL, LLC.

17. At the time of the occurrence of the act in question and immediately prior thereto, NOEL FERNANDEZ BARBAN was engaged in the furtherance of Defendant RUSSO INTERNATIONAL, LLC's business.

18. At the time of the occurrence of the act in question and immediately prior thereto, NOEL FERNANDEZ BARBAN was engaged in accomplishing a task for which NOEL FERNANDEZ BARBAN was employed.

19. Plaintiff invokes the doctrine of Respondeat Superior against Defendant RUSSO INTERNATIONAL, LLC.

**PLAINTIFF'S CLAIM OF
NEGLIGENT ENTRUSTMENT AGAINST RUSSO INTERNATIONAL, LLC**

20. On September 2, 2015, Defendant RUSSO INTERNATIONAL, LLC was the owner of the vehicle operated by NOEL FERNANDEZ BARBAN.



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CORRECT COPY**
Jo Carter, District Clerk
Randall County, Texas
Plaintiff's Original Petition

21. Defendant RUSSO INTERNATIONAL, LLC entrusted the vehicle to NOEL FERNANDEZ BARBAN, a reckless and incompetent driver.

22. Defendant RUSSO INTERNATIONAL, LLC knew, or through the exercise of reasonable care should have known, that NOEL FERNANDEZ BARBAN was a reckless and incompetent driver.

23. As described herein, NOEL FERNANDEZ BARBAN was negligent on the occasion in question.

24. NOEL FERNANDEZ BARBAN's negligence was the proximate cause of Plaintiff's damages.

**PLAINTIFF'S
CLAIM OF NEGLIGENCE AGAINST NOEL FERNANDEZ BARBAN**

25. Defendant NOEL FERNANDEZ BARBAN had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

26. Plaintiff's injuries were proximately caused by Defendant NOEL FERNANDEZ BARBAN's negligent, careless and reckless disregard of said duty.

27. The negligent, careless and reckless disregard of duty of Defendant NOEL FERNANDEZ BARBAN consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant NOEL FERNANDEZ BARBAN failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In that Defendant NOEL FERNANDEZ BARBAN failed to turn his motor vehicle to the left or right in an effort to avoid the collision complained of;
- C. In that Defendant NOEL FERNANDEZ BARBAN failed to maintain a clear and reasonable distance between Plaintiff's motor vehicle and Defendant NOEL FERNANDEZ BARBAN's motor vehicle which would permit Defendant NOEL FERNANDEZ BARBAN to bring his motor



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Randall County, Texas

vehicle to a safe stop without colliding into Plaintiff's motor vehicle;

- D. In that Defendant NOEL FERNANDEZ BARBAN failed to keep such distance away from Plaintiff's motor vehicle as a person using ordinary prudent care would have done;
- E. In that Defendant NOEL FERNANDEZ BARBAN was operating his motor vehicle at a rate of speed which was greater than that would have been operated by a person of ordinary prudence under the same or similar circumstances; and
- F. In that Defendant NOEL FERNANDEZ BARBAN failed to apply his brakes to his motor vehicle in a timely and prudent manner.

DAMAGES FOR PLAINTIFF, WILLIE ALFRED BOLTON

28. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, WILLIE ALFRED BOLTON was caused to suffer bodily injuries, and to incur the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, WILLIE ALFRED BOLTON for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Randall County, Texas;
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Physical impairment in the past;
- F. Physical impairment which, in all reasonable probability, will be suffered in the future;
- G. Loss of earnings in the past;
- H. Loss of earning capacity which will, in all probability, be incurred in the future;
- I. Property damages in the amount of \$10,000.00;



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Jo Carter, District Clerk
Randall County, Texas

J. Mental anguish in the past; and

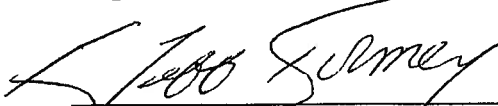
K. Mental anguish in the future.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, WILLIE ALFRED BOLTON, respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants, jointly and severally, for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

McCONNELL & TORMEY
P.O. Box 629
Amarillo, TX 79105
(806) 355-2700
(806) 355-4771 Fax
ed@mcconnell-tormey-law.com


Ed McConnell
SBN: 13442500

ATTORNEY FOR PLAINTIFF

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY



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CORRECT COPY**
Jo Carter, District Clerk
Randall County, Texas

CERTIFIED TRUE AND CORRECT COPY

The above and foregoing is a full, true and correct
photographic copy of the original on file and of
record in my office, containing 7 pages.

ATTEST: December 14, 2015

Jo Carter, District Clerk
Randall County, Texas

By: Amy Montoya Deputy



REQUEST FOR ISSUANCE

CAUSE NUMBER: 69,088-A

TYPE OF ISSUANCE: *E-FILING-YOU MUST ASSESS THE TYPE OF ISSUANCE, TYPE OF SERVICE, SERVICE FEES, AND COPY FEES ACCORDINGLY*

- ☒ CITATION
☐ PRECEPT
☐ TRO
☐ PROTECTIVE ORDER
☐ ABSTRACT OF JUDGMENT
☐ WRIT OF EXECUTION
☐ OTHER: _____

TYPE OF SERVICE:

- ☐ POTTER COUNTY SHERIFF *SERVICE FEE AND COPY FEE REQUIRED*
☐ CIVIL PROCESS SERVER-AUTHORIZED PERSON TO PICK-UP: _____
☐ POSTING *SERVICE FEE AND COPY FEE REQUIRED*
☐ PUBLICATION *SERVICE FEE REQUIRED*
☒ CERTIFIED MAIL *SERVICE FEE AND COPY FEE REQUIRED*
☐ TO BE MAILED TO PARTY REQUESTING SERVICE *SELF ADDRESSED STAMPED ENVELOPE AND/OR POSTAGE FEE REQUIRED*
☐ TO BE EMAILED TO PARTY REQUESTING SERVICES MUST INCLUDE EMAIL ADDRESS

TITLE OF DOCUMENT: ① Plaintiff's Original Petition & ② Request for Disclosure
FOR EACH PARTY SERVED YOU MUST ASSESS THE APPROPRIATE NUMBER OF COPIES OF THE DOCUMENT TO
BE SERVED *UNLESS CLERK IS TO EMAIL, THEN NO COPY FEE IS REQUIRED*

a Request for Disclosure to the Def. will be brought to your office
FILE MARKED DATE OF DOCUMENT TO BE SERVED: 10/28/15 today - to serve on the Sec'y of State with the petition

PARTY TO BE SERVED: (PLEASE FILL OUT A NEW REQUEST FORM PER PARTY TO BE SERVED)

NAME: Secretary of State of the State of Texas
Statutory Documents Section, Citations Unit

ADDRESS: P.O. Box 12079
Austin, TX 78711-2079

AGENT, IF APPLICABLE: For Service by CM, RRR upon: Defendant Russo International, LLC
4620 N.W. 73rd Ave.
Miami, Florida 33166
c/o Armando Uribe, Manager

PARTY/ATTORNEY REQUESTING SERVICE:

NAME: Ed McConnell, Attorney for Plaintiff, McConnell
+ Tormey

MAILING ADDRESS: P.O. Box 629, Amarillo, TX 79105

PHONE NUMBER: 806.355.2700 FAX NUMBER: 806.355.4771

EMAIL ADDRESS: ed@mcconnell-tormey-law.com



**CERTIFIED TRUE AND
CORRECT COPY**
Jo Carter, District Clerk
Randall County, Texas



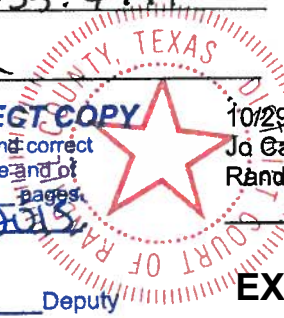
COPY

CERTIFIED TRUE AND CORRECT COPY

The above and foregoing is a full, true and correct
photographic copy of the original on file and of
record in my office, containing 1 pages.

ATTEST: December 14, 2015
Jo Carter, District Clerk
Randall County, Texas

By: Amey M. Tormey Deputy



FILED
10/29/2015 10:17:36 AM
Jo Carter, District Clerk
Randall County, Texas
AH Deputy

EXHIBIT D

McCONNELL & TORMEY
Attorneys At Law

ED McCONNELL

Board Certified Civil Trial Law
Board Certified Personal Injury Trial Law

JEFF TORMEY

Board Certified Personal Injury Trial Law

October 29, 2015

Jo Carter
Randall County District Clerk
2309 Russell Long Blvd #110
Canyon, TX 79015
Attn: Rhonda

Re: No. 69088-A in the 47th District Court of Randall Co., Texas;
Willie Alfred Bolton, Plaintiff v. Russo International, LLC and
Noel Fernandez Barban, Defendants

Dear Rhonda:

With regard to the filing of the referenced case, I am now filing the Civil Case Information Sheet and a Request for Issuance for each defendant.

I have spoken with your office about our need for service in this case. We are serving each defendant through the Secretary of State of the State of Texas, who will serve each defendant by certified mail, return receipt requested, at their addresses in Florida, as set out on the Requests for Issuance.

We will also be sending a Request for Disclosure to each defendant through the Secretary of State. I have paid for copies for duplicate sets, as the Secretary of State requires, of the Original Petition and Request for Disclosure to each defendant. You advised me that I should bring the Requests for Disclosure to your office along with a check to the Secretary of State for the service fee for these two defendants, and I will be bringing that over shortly.

Thank you for your assistance with this matter.

CERTIFIED TRUE AND CORRECT COPY

The above and foregoing is a full, true and correct photographic copy of the original on file and of record in my office, containing _____ pages.

ATTEST: December 14, 2015

Jo Carter, District Clerk
Randall County, Texas

By: [Signature] Deputy

/dtb

Encl.

Sincerely yours,

[Signature]
Debbie Beyer
Legal Assistant



COPY



CERTIFIED TRUE AND CORRECT COPY
Jo Carter, District Clerk
Randall County, Texas

Street Address: 310 W. 6th · Amarillo, TX 79101
Mailing Address: P.O. Box 629 · Amarillo, TX 79105
Phone: 806-355-2700 · Fax: 806-355-4771

FILED
10/29/2015 10:17:36 AM
Jo Carter, District Clerk
Randall County, Texas
____AH____Deputy

EXHIBIT E

REQUEST FOR ISSUANCE

CAUSE NUMBER: 69,088-17

TYPE OF ISSUANCE: *E-FILING-YOU MUST ASSESS THE TYPE OF ISSUANCE, TYPE OF SERVICE, SERVICE FEES, AND COPY FEES ACCORDINGLY*

- ☒ CITATION
☐ PRECEPT
☐ TRO
☐ PROTECTIVE ORDER
☐ ABSTRACT OF JUDGMENT
☐ WRIT OF EXECUTION
☐ OTHER: _____

TYPE OF SERVICE:

- ☐ POTTER COUNTY SHERIFF *SERVICE FEE AND COPY FEE REQUIRED*
☐ CIVIL PROCESS SERVER-AUTHORIZED PERSON TO PICK-UP: _____
☐ POSTING *SERVICE FEE AND COPY FEE REQUIRED*
☐ PUBLICATION *SERVICE FEE REQUIRED*
☒ CERTIFIED MAIL *SERVICE FEE AND COPY FEE REQUIRED*
☐ TO BE MAILED TO PARTY REQUESTING SERVICE *SELF ADDRESSED STAMPED ENVELOPE AND/OR POSTAGE FEE REQUIRED*
☐ TO BE EMAILED TO PARTY REQUESTING SERVICES-MUST INCLUDE EMAIL ADDRESS

TITLE OF DOCUMENT: ^① Plaintiff's Original Petition & ^② Request for Disclosure
FOR EACH PARTY SERVED YOU MUST ASSESS THE APPROPRIATE NUMBER OF COPIES OF THE DOCUMENT TO BE SERVED *UNLESS CLERK IS TO EMAIL, THEN NO COPY FEE IS REQUIRED*

A Request for Disclosure to the Def. will be brought to your office today to serve on the Soc'y of State with the petition.
FILE MARKED DATE OF DOCUMENT TO BE SERVED: 10/28/15

PARTY TO BE SERVED: (PLEASE FILL OUT A NEW REQUEST FORM PER PARTY TO BE SERVED)

NAME: Secretary of State for the State of Texas

Statutory, Documents Section, Citations Unit

ADDRESS: P.O. Box 12079

Austin, TX 78711-2079

AGENT, IF APPLICABLE: For Service By cm, RER upon: Defendant Noel Fernandez Barban
1600 N.W. North River Dr., Apt #216
Miami, Florida 33125

PARTY/ATTORNEY REQUESTING SERVICE:

NAME: Ed McConnell, Attorney for Plaintiff, McConnell + Tormey

MAILING ADDRESS: P.O. Box 629, Amarillo, TX 79105

PHONE NUMBER: 806-355-2700 FAX NUMBER: 806-355-4771

EMAIL ADDRESS: ed@mcconnell-tormey-law.com



**CERTIFIED TRUE AND
CORRECT COPY**
Jo Carter, District Clerk
Randall County, Texas

CERTIFIED TRUE AND CORRECT COPY
The above and foregoing is a full, true and correct
photographic copy of the original on file and of
record in my office, containing _____ pages.
ATTEST: December 14, 2015
Jo Carter, District Clerk
Randall County, Texas
By: Amey Montoya Deputy

FILED
10/29/2015 10:17:36 AM
Jo Carter, District Clerk
Randall County, Texas
____ AB Deputy

EXHIBIT F

THE STATE OF TEXAS

TO: NOEL FERNANDEZ BARBAN, 1600 N.W. NORTH RIVER DR., APT. 216, MIAMI, FLORIDA 33125 by Serving THE SECRETARY OF STATE, STATUTORY DOCUMENTS SECTION, PO BOX 12079, AUSTIN, TEXAS 78711-2079, Defendant in the hereinafter styled and numbered cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m., on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you.

YOU ARE THEREFORE COMMANDED to appear before the 47th District Court of Randall County, Texas, to be held at the Justice Center, 2309 Russell Long Blvd., Ste 110, Canyon, TX 79015 of said County, by filing such written answer to the PLAINTIFF'S ORIGINAL PETITION of Plaintiff, a copy of which accompanies this citation in CAUSE 69088A styled:

**WILLIE ALFRED BOLTON
VS.
RUSSO INTERNATIONAL, LLC AND
NOEL FERNANDEZ BARBAN**

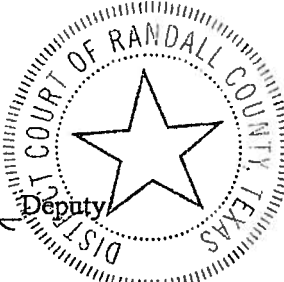
filed in said Court on this the 28th day of October, 2015.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT at office, on this the 30th day of October, 2015

JO CARTER
Clerk of the District Courts
Randall County, Texas
2309 Russell Long Blvd., Ste 110
Canyon, Texas 79015

ALSO ATTACHED BY NOT FILED ARE
PLAINTIFF'S REQUEST FOR DISCLOSURE TO
DEFENDANT NOEL FERNANDEZ BARBAN

By: Annehead High



The name and address of Plaintiff's attorney is: **ED MCCONNELL, 310 W 6TH STREET, PO BOX 629, AMARILLO, TX 79105, 806-355-2700**

CLERK'S CERTIFICATE OF SERVICE

EXECUTED on October 30, 2015, by mailing a true copy of this citation, with true copy of the aforesaid pleading attached thereto, via certified mail, addressed to SECRETARY OF STATE, STATUTORY DOCUMENTS SECTION, PO BOX 12079, AUSTIN, TX 78711-2079 and endorsed thereon "Return Receipt Requested".
Service upon the defendant is evidenced, by the return receipt incorporated herein and attached hereto.

TO CERTIFY WHICH WITNESS my hand officially this on this the 30th day of October, 2015.

Certified Article Number

9414 7266 9904 2033 9761 59

SENDERS RECORD



**CERTIFIED TRUE AND
CORRECT COPY**

Jo Carter, District Clerk
Randall County, Texas

Citation (Certified Mail)



COPY

JO CARTER, District Clerk
Randall County, Texas

By: Annehead High

CERTIFIED TRUE AND CORRECT COPY

The above and foregoing is a full, true and correct photographic copy of the original on file and of record in my office, containing 14 pages.

ATTEST: December 14, 2015

Jo Carter, District Clerk
Randall County, Texas

By: Amey Montoya



Deputy **EXHIBIT G**

THE STATE OF TEXAS

TO: RUSSO INTERNATIONAL, LLC, 4620 N.W. 73RD AVE., MIAMI, FLORIDA 33166, C/O
ARMANDO URIBE, MANAGER by Serving THE SECRETARY OF STATE, STATUTORY DOCUMENTS
SECTION, PO BOX 12079, AUSTIN, TEXAS 78711-2079, Defendant in the hereinafter styled and numbered
cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m., on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you.

YOU ARE THEREFORE COMMANDED to appear before the 47th District Court of Randall County, Texas, to be held at the Justice Center, 2309 Russell Long Blvd., Ste 110, Canyon, TX 79015 of said County, by filing such written answer to the PLAINTIFF'S ORIGINAL PETITION of Plaintiff, a copy of which accompanies this citation in CAUSE 69088A styled:

WILLIE ALFRED BOLTON
VS.
RUSSO INTERNATIONAL, LLC AND
NOEL FERNANDEZ BARBAN

filed in said Court on this the 28th day of October, 2015.

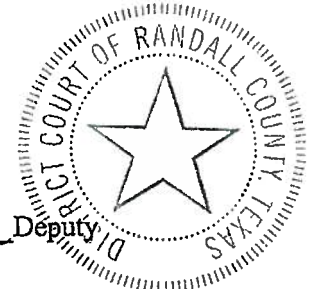
ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT at office, on this the 30th day of October, 2015

ALSO ATTACHED BY NOT FILED ARE
PLAINTIFF'S REQUEST FOR DISCLOSURE TO
DEFENDANT RUSSO INTERNATIONAL, LLC

JO CARTER
Clerk of the District Courts
Randall County, Texas
2309 Russell Long Blvd., Ste 110
Canyon, Texas 79015

By: Andrea High

Deputy



The name and address of Plaintiff's attorney is: ED MCCONNELL, 310 W 6TH STREET, PO BOX 629, AMARILLO, TX 79105, 806-355-2700

CLERK'S CERTIFICATE OF SERVICE

EXECUTED on October 30, 2015, by mailing a true copy of this citation, with true copy of the aforesaid pleading attached thereto, via certified mail, addressed to SECRETARY OF STATE, STATUTORY DOCUMENTS SECTION, PO BOX 12079, AUSTIN, TX 78711-2079 and endorsed thereon "Return Receipt Requested".
Service upon the defendant is evidenced, by the return receipt incorporated herein and attached hereto.

TO CERTIFY WHICH WITNESS my hand officially this on this the 30th day of October, 2015.

Certified Article Number

4414 7266 4904 2033 4761 42

SENDERS RECORD

JO CARTER, District Clerk
Randall County, Texas

CERTIFIED TRUE AND CORRECT COPY

The above and foregoing is a full, true and correct photographic copy of the original on file and of record in my office, containing _____ pages.

ATTEST: December 14, 2015
Jo Carter, District Clerk
Randall County, Texas

By: Amey Montoya

Deputy



EXHIBIT H



CERTIFIED TRUE AND CORRECT COPY

Jo Carter, District Clerk
Randall County, Texas



The State of Texas
Secretary of State

2016-259531-1

I, the undersigned, as Secretary of State of Texas DO HEREBY CERTIFY that according to the records of this office, a copy of the Citation and Plaintiff's Original Petition in the cause styled:

Willie Alfred Bolton VS Russo International LLC and Noel Fernandez
Barban
47th Judicial District Court Of Randall County, Texas
Cause No: 69088A

was received by this office on November 4, 2015, and that a copy was forwarded on November 9, 2015, by CERTIFIED MAIL, return receipt requested to:

Noel Fernandez Barban
1600 N.W. North River Dr.,
Apt. 216
Miami, FL 33125

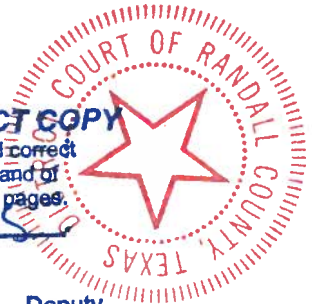
The RETURN RECEIPT was received in this office dated November 16, 2015, bearing signature.

CERTIFIED TRUE AND CORRECT COPY

The above and foregoing is a full, true and correct photographic copy of the original on file and of record in my office, containing _____ pages.

ATTEST: December 4, 2015
Jo Carter, District Clerk
Randall County, Texas

By: Amy Montoya Deputy



**CERTIFIED TRUE AND
CORRECT COPY**
Jo Carter, District Clerk
Randall County, Texas



Date issued: November 18, 2015

Carlos H. Cascos

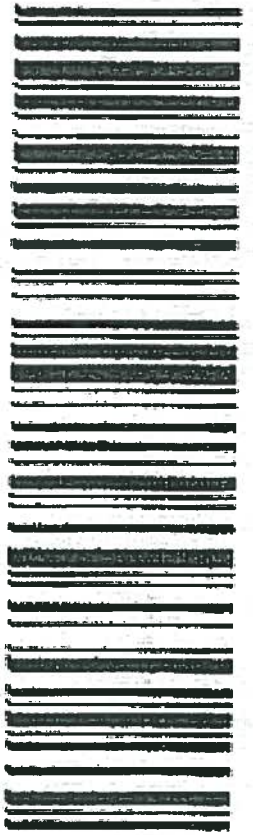
Carlos H. Cascos
Secretary of State

COPY

.GF/vjbFILED
12/3/2015 11:03:25 AM
Jo Carter, District Clerk
Randall County, Texas
____AH____Deputy

EXHIBIT I

2. Article Number



9414 7266 9904 2033 9761 59

3. Service Type **CERTIFIED MAIL®**

4. Restricted Delivery? (Extra Fee) ☐ Yes

Article Addressed to:

NOEL FERNANDEZ BARBAN 1600 N.W.
NORTH RIVER DR., APT. 216 MIAMI, FL 33127
SERVING THE SECRETARY OF STATE,
STATUTORY DOCUMENTS SECTION
P.O. BOX 12079
AUSTIN, TX 78711-2079

AA
DEPUTY

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

D. Is delivery address different from item 1? If YES, enter delivery address below:

FILED

NOV 18 PM 1

690883

JO CARTER, DISTRICT CLERK
RANDALL COUNTY, TEXAS

CERTIFIED TRUE AND CORRECT COPY

The above and foregoing is a full, true and correct photographic copy of the original on file and on record in my office, containing

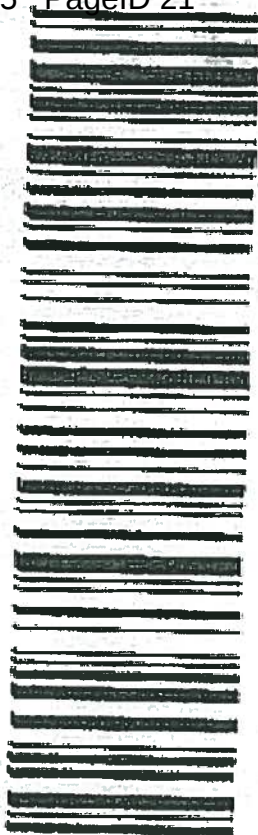
ATTEST: December 14, 2015
Jo Carter, District Clerk
Randall County, Texas

By: *Jo Carter*

CERTIFIED TRUE AND CORRECT COPY
Jo Carter, District Clerk
Randall County, Texas



2. Article Number



9414 7266 9904 2033 9761 42

3. Service Type **CERTIFIED MAIL®**

4. Restricted Delivery? (Extra Fee) ☐ Yes

5. Article Addressed to:

RUSSO INTERNATIONAL, LLC, 4620 N.W.
73RD AVE., MIAMI, FLORIDA 33166, C/O
ARMANDO URIBE, MANAGER, BY
SERVING THE SECRETARY OF STATE,
STATUTORY DOCUMENTS SECTION
P.O. BOX 12079
AUSTIN, TX 78711-2079

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

PASSICPA

X

NOV 13 2015

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☒ No

Agent
Addressee
Deputy

CERTIFIED TRUE AND CORRECT COPY

The above and foregoing is a full, true and correct photographic copy of the original on file and record in my office, containing _____ pages.

ATTEST:

Jo Carter, District Clerk
Randall County, Texas

By: *Amey Montoya*

NOV 13 2015
JO CARTER, DISTRICT CLERK
RANDALL COUNTY, TEXAS

CERTIFIED TRUE AND CORRECT COPY
Jo Carter, District Clerk
Randall County, Texas

PS Form 3811, January 2005

Domestic Return Receipt

JO CARTER, DISTRICT CLERK

DEPUTY



CAUSE NO. 69088A

WILLIE ALFRED BOLTON

Plaintiff

VS.

RUSSO INTERNATIONAL, LLC AND
NOEL FERNANDEZ BARBAN

Defendants

§ IN THE 47TH DISTRICT COURT

§

§ OF

§

§

§

§ RANDALL COUNTY, TEXAS

ORIGINAL ANSWER OF DEFENDANTS,
RUSSO INTERNATIONAL, LLC AND NOEL FERNANDEZ BARBAN

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, RUSSO INTERNATIONAL, LLC and NOEL FERNANDEZ BARBAN, hereinafter referred to as Defendants, and file this, their Original Answer to Plaintiff's Original Petition and would respectfully show the Court the following:

I. GENERAL DENIAL

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendants generally deny each and every material allegation set forth in Plaintiff's Original Petition and demand that Plaintiff prove the same as required by law.

II. SPECIAL EXCEPTIONS

2. Defendant specially excepts to Plaintiff's petition at paragraph 27 on page 5 wherein claims are made that Defendants' negligence "consisted of, but is not limited to, the following acts or omissions..." as such is vague and does not properly put Defendants on notice of the claims being made against it. For the reasons set forth above, Defendant prays judgment of this Court.

III. AFFIRMATIVE DEFENSES

3. Defendants would further show the Court that economic damages awarded against Defendants for medical or healthcare expenses, if any, may not exceed the amount actually paid or incurred by or on behalf of Plaintiff under § 41.0105 of the Texas Civil Practice and Remedies Code,



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CORRECT COPY**
Jo Carter, District Clerk
Randall County, Texas

Page 1 of 4



COPY

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12/3/2015 2:10:44 PM
Jo Carter, District Clerk
Randall County, Texas
AH Deputy

EXHIBIT K

and Defendants would respectfully request this Honorable Court to compute Plaintiff's award, if any, in accordance with the language of § 41.0105 of the Texas Civil Practice and Remedies Code. Defendants also requests that Plaintiff prove: 1) that reasonable and necessary medical or healthcare expenses do exist; 2) what part of the medical or healthcare expenses have actually been paid or for which Plaintiff remains liable; and 3) that the medical or healthcare expenses claimed resulted from conduct of Defendants.

4. Defendants affirmatively plead, if same be necessary as all liability is denied, pursuant to § 18.091 of the TEX. CIV. PRAC. & REM. CODE, to the extent that Plaintiff seeks recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value, Defendants would show that Plaintiff must present evidence to prove the loss in the form of a net loss after reduction from income tax payments or unpaid tax liability pursuant to any Federal Income Tax law.

5. Pleading further and in the alternative, Defendants would show that at all times material, if the evidence shows, Plaintiff failed to mitigate his own injuries and damages as would have been done by a reasonable and prudent person, and his failure to mitigate his injuries and damages has proximately caused or at least contributed to his claimed injuries and damages exceeding that for which recovery is ordinarily permitted.

6. Defendant affirmatively asserts, if the evidence shows, a portion of the Plaintiff's injuries are a result of a prior or subsequent injury, injuries, diseases, or natural conditions, which Plaintiff has suffered, or a combination thereof, and such injuries, diseases or natural conditions are the proximate cause, or alternatively, the sole proximate cause of a portion of the injuries complained of by Plaintiff in this case. Said prior injury, injuries, diseases, or natural conditions are neither related to nor occurring as the result of the occurrence made the basis of this lawsuit. Alternatively, to the extent Plaintiff suffers from any condition, said prior or subsequent injury, injuries, diseases



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CORRECT COPY**
Jo Carter, District Clerk
Randall County, Texas
7705.0001 - Original Answer

or natural conditions contributed to said condition, if any, or said prior or subsequent injury, injuries, diseases or natural conditions are the sole cause of same.

7. Defendants affirmatively assert they currently have insufficient knowledge to form a belief as to whether it has additional, unstated affirmative defenses available. Defendants reserve the right to assert additional affirmative defenses for which it develops factual support pending the outcome of discovery and investigation.

8. Defendants affirmatively assert, if the evidence shows, Plaintiff chose to incur or pay medical expenses in an amount exceeding that which would satisfy the health care provider's claim under an existing and available insurance policy is neither reasonable nor necessary and thus does not satisfy that basic requirement of damages recovery.

9. Defendants further alleges that Plaintiff's claims for pre-judgment interest are limited by the dates and amounts set forth in one or more of the following statutes, as applicable to this case:

- A. Chapter 41, Texas Civil Practice and Remedies Code; and
- B. The Texas Finance Code.

IV. NOTICE OF INTENT

10. Defendants hereby give notice of intent, and reserve the right to, utilize items produced in discovery in the trial of this matter and the authenticity of such items is self-proven per the Texas Rules of Civil Procedure, 193.7.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants pray:

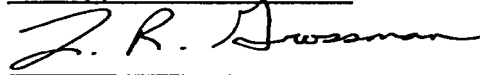
- (1) that Plaintiff take nothing by his suit herein;
- (2) that Defendants be dismissed therefrom; and
- (3) that Defendants recover their costs herein expended.



**CERTIFIED TRUE AND
CORRECT COPY**
Jo Carter, District Clerk
Randall County, Texas

7705.0001—Original Answer

CRAIG, TERRILL, HALE & GRANTHAM, L.L.P.
FirstBank Centre
9816 Slide Road, Suite 201
Lubbock, Texas 79424
(806) 744-3232
(806) 744-2211 (fax)
BudG@CTHGLawfirm.com



Leonard R. (Bud) Grossman
SBN 00784182

ATTORNEYS FOR DEFENDANTS,
RUSSO INTERNATIONAL, LLC.
and NOEL FERNANDEZ BARBAN

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was sent by Efiling and facsimile, to the following person on this the 3rd day of December, 2015:



Of the Firm

Ed McConnell
McConnell & Tormey
P. O. Box 629
Amarillo, Texas 79105
Fax: 806-355-4771
ed@mcconnell-tormey-law.com

CERTIFIED TRUE AND CORRECT COPY

The above and foregoing is a full, true and correct
photographic copy of the original on file and of
record in my office, containing 4 pages.

ATTEST: December 14, 2015

Jo Carter, District Clerk
Randall County, Texas

By: Amy Montoya Deputy



**CERTIFIED TRUE AND
CORRECT COPY**
Jo Carter, District Clerk
Randall County, Texas